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UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 NATALIE LE DEMOLA et al.,

16 Defendants.

No. CR 22-CR-00205-JFW-1

GOVERNMENT'S SENTENCING POSITION  
REGARDING DEFENDANT NATALIE LE  
DEMOLA

Sentencing

Hearing Date: July 10, 2023

Hearing Time: 8:00 a.m.

Location: Courtroom of the  
Honorable John F.  
Walter

19  
20 Plaintiff United States of America, by and through its counsel  
21 of record, the United States Attorney for the Central District of  
22 California and Assistant United States Attorneys David C. Lachman and  
23 Nisha Chandran, hereby files its sentencing position for defendant  
24 NATALIE LE DEMOLA.

25 This sentencing position is based upon the attached memorandum  
26 of points and authorities, the files and records in this case, the  
27 United States Probation and Pretrial Services Office's presentence  
28 //

1 investigation report, and such further evidence and argument as the  
2 Court may permit.

3 Dated: June 28, 2023

Respectfully submitted,

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6 Assistant United States Attorney  
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7  
8 /s/  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Beginning in June 2020, defendant NATALIE LE DEMOLA  
4 ("defendant") led and organized from prison a large-scale scheme to  
5 fraudulently obtain Pandemic Unemployment Assistance benefits  
6 intended for residences of California who were unemployed because of  
7 the COVID-19 pandemic. Defendant and her co-conspirators procured  
8 personal identifying information ("PII") of individuals who were  
9 ineligible for unemployment insurance benefits, typically because  
10 they were incarcerated. Defendant and her co-conspirators used that  
11 information to submit fraudulent online applications to the  
12 California Employment Development Department ("EDD") for pandemic  
13 benefits, causing EDD to disburse approximately \$1.7 million in  
14 pandemic benefits to EDD debit accounts. Defendant then shared  
15 information to access the EDD accounts and her co-conspirators  
16 assumed the identities of more than 150 victims to withdraw hundreds  
17 of thousands of dollars in pandemic benefits from ATMs in Los Angeles  
18 County. On March 7, 2023, defendant pleaded guilty without a plea  
19 agreement to conspiracy to commit wire fraud and bank fraud in  
20 violation of 18 U.S.C. § 1349 (count one), bank fraud in violation of  
21 18 U.S.C. § 1344(2) (counts three, four, and seven), and aggravated  
22 identity theft in violation of 18 U.S.C. § 1028A (count thirty-  
23 three). The parties filed a Joint Statement Regarding Defendant's  
24 Rule 11 Plea on March 6, 2023 (Dkt. 321).

25 The United States Probation and Presentence Office ("USPPO")  
26 issued its Presentence Report ("PSR") and Recommendation Letter  
27 ("Rec. Letter") on June 5, 2023. (Dkts. 450, 451.) The PSR  
28 calculated a total offense level of 24, which included a sixteen-

1 level increase because the loss attributable to defendant was greater  
2 than \$1,500,000 but less than \$3,500,000, a two-level increase  
3 because the scheme involved ten or more victims, a two-level increase  
4 because the offense involved the use of means of identification to  
5 obtain other means of identification, and a three-level reduction for  
6 defendant's acceptance of responsibility. (PSR ¶¶ 50-67.) The PSR  
7 did not include an increase for defendant's aggravating role in the  
8 offense. (PSR ¶¶ 57-61.) Based on a total offense level of 24, and  
9 a Criminal History Category of III, the PSR calculated an advisory  
10 Guideline range of 63 to 78 months' incarceration. (PSR ¶ 131.) The  
11 PSR did not identify any factors that would warrant a departure from  
12 the applicable Guidelines range, but noted that the history and  
13 characteristics of the defendant may warrant a variance. (PSR ¶¶  
14 152-153.) The USPPPO recommended a sentence of 65 months'  
15 imprisonment, followed by a three-year term of supervised release.  
16 (Rec. Letter at 2-3.) The USPPPO also calculated that the reasonably  
17 foreseeable intended loss is \$1,699,975 and the actual loss to EDD  
18 was \$933,181. (PSR ¶ 51.)

19 Defendant's criminal conduct was more than a series of bad  
20 decisions. She led and organized a scheme that defrauded taxpayers  
21 of millions of dollars in EDD funds while serving a life sentence in  
22 for murder, aided by a contraband phone and with the assistance of a  
23 California Department of Corrections ("CDCR") employee. All of the  
24 relevant sentencing factors articulated in 18 U.S.C. § 3553 favor a  
25 significant sentence for such a dedicated criminal.

26 The government agrees with the PSR's criminal history  
27 calculation and the base offense level calculation. However, the  
28 government believes that the two-level increase imposed because the

1 offense involved the use of means of identification to obtain other  
2 means of identification should not apply, and believes that a four-  
3 level increase should apply based on defendant's aggravating role as  
4 an organizer or leader of the EDD fraud scheme. In light of this,  
5 the total offense level calculation increases to 26 and the resulting  
6 advisory Guidelines range is 78 to 97 months (plus a two-year  
7 mandatory consecutive sentence on Count Thirty-Three). Thus, the  
8 government respectfully requests that the Court sentence defendant  
9 to: (1) a Guidelines term of 102 months' imprisonment (including the  
10 two-year mandatory consecutive sentence on Count thirty-three); (2)  
11 five years of supervised release; (3) restitution in the amount of  
12 \$933,181 (jointly and severally liable with all co-defendants); and  
13 (4) a mandatory special assessment of \$500.

## 14 **II. DEFENDANT LED AND ORCHESTRATED A BRAZEN EDD FRAUD SCHEME**

15 By now, the salient facts of the case are no doubt well known to  
16 the Court. As defendant admitted at her change of plea hearing (Rule  
17 11 Joint Statement ¶ 13):

18 Beginning no later than June 2020, and continuing through at  
19 least in or about April 2021, in Los Angeles County and elsewhere,  
20 defendant conspired with co-defendant Carleisha Plummer ("Plummer")  
21 and others known and unknown to commit wire fraud, in violation of 18  
22 U.S.C. § 1349, and bank fraud, in violation of 18 U.S.C. § 1344(2).  
23 Defendant participated in the conspiracy from at least June 2020  
24 until at least September 2020.

25 In furtherance of this scheme, and to accomplish its objectives,  
26 defendant used PII belonging to other people to fraudulently acquire  
27 unemployment insurance benefits from EDD, including Pandemic  
28 Unemployment Assistance benefits for residents of California who were



1 unemployed because of the Covid-19 pandemic ("pandemic benefits").  
2 Specifically, defendant and her co-conspirators would obtain the PII,  
3 such as the names, dates of birth, and social security numbers, of  
4 other individuals who were ineligible for unemployment insurance  
5 benefits, including pandemic benefits. Many of the PII pertained to  
6 individuals who were incarcerated at CDCR institutions. Defendant  
7 and her co-conspirators then electronically submitted fraudulent  
8 online applications to EDD for pandemic benefits using these  
9 individuals' PII. On the fraudulent applications, defendant and her  
10 co-conspirators often assumed the victims' identities and provided  
11 materially false information to EDD, including that the applicants  
12 were unemployed as a direct result of the Covid-19 pandemic.

13 For example, defendant obtained the PII of CDCR inmates D.F. and  
14 M.D.S. and then submitted applications to EDD using their PII. D.F.  
15 did not authorize defendant to apply for pandemic benefits using her  
16 PII while M.D.S. incorrectly believed that defendant would provide  
17 him a portion of any pandemic benefits obtained using his PII.  
18 Defendant also submitted an application to EDD in her own name  
19 despite knowing that she was ineligible for pandemic benefits because  
20 she was incarcerated. By submitting the fraudulent EDD applications,  
21 defendant and her co-conspirators caused EDD to transmit emails to  
22 email addresses they provided, and to authorize pandemic benefits to  
23 be provided to individuals who were ineligible for pandemic benefits.

24 After EDD approved the fraudulent applications and disbursed the  
25 pandemic benefits funds to the EDD debit accounts, and Bank of  
26 America issued the EDD debit cards linked to those accounts,  
27 defendant's co-conspirators used the EDD debit cards to make  
28 fraudulent cash withdrawals of pandemic benefits from automated

1 teller machines ("ATMs") in Los Angeles County and elsewhere,  
2 including at ATMs operated by Bank of America and other financial  
3 institutions.

4 For example, on July 10, 2020, defendant and her co-schemers,  
5 each aiding and abetting one another, caused the withdrawal of \$1,000  
6 using an EDD debit card issued in the name of M.D.S at a Bank of  
7 America ATM in Wilmington, California. The next day, July 11, 2020,  
8 defendant and her co-schemers, each aiding and abetting one another,  
9 likewise caused the withdrawal of \$1,000 using an EDD debit card  
10 issued in the name of D.F. at a Bank of America ATM in Wilmington,  
11 California. Four days later, on July 15, 2020, defendant and her co-  
12 schemers, each aiding and abetting one another, caused the withdrawal  
13 of another \$1,000 using an EDD debit card in the name of D.F. at a  
14 Bank of America ATM in Wilmington, California. Each of these  
15 withdrawals occurred at an ATM operated by Bank of America and drew  
16 on funds held in Bank of America debit accounts. Defendant and her  
17 co-schemers knew that they were not entitled to these cash  
18 withdrawals.

19 Additionally, beginning on or about June 23, 2020, and  
20 continuing until on or about July 18, 2020, in Los Angeles and San  
21 Bernardino Counties, within the Central District of California, and  
22 elsewhere, defendant knowingly transferred, possessed, and used,  
23 without lawful authority, means of identification that defendant knew  
24 belonged to other real persons, namely, the names and EDD account  
25 numbers of M.D.S. and D.F. during and in relation to the conspiracy  
26 to commit wire fraud and bank fraud in violation of 18 U.S.C. § 1349,  
27 as charged in count one of the indictment.

### 1 III. THE USPPPO'S CALCULATIONS

#### 2 A. The Government Concurs with the USPPPO's Criminal History 3 Calculations and the Guidelines Base Offense Level.

4 Based on defendant's first-degree murder conviction, with  
5 enhancements for inflicting torture and lying-in-wait, for killing  
6 her mother, the USPPPO determined that defendant has three criminal  
7 history points. (PSR ¶ 73.) Defendant also committed the instant  
8 offense while serving a prison sentence, increasing defendant's total  
9 criminal history score to five. (PSR ¶ 75.) Defendant thus falls  
10 within Criminal History Category III. (PSR ¶ 76.) The government  
11 concurs with this calculation.

12 The PSR also calculated, based on the above facts, a total  
13 offense level of 24. (PSR ¶ 67.) The government concurs with the  
14 base offense level of 7 calculated by the PSR. (PSR ¶ 67.) The  
15 PSR's total offense level calculation is as follows:

Base Offense Level:	7	U.S.S.G. § 2B1.1(a)(1)
\$1,500,000 < Loss Amount < \$3,500,000:	+16	U.S.S.G. § 2B1.1(b)(1)(G)
10 or More Victims:	+2	U.S.S.G. § 2B1.1(b)(2)(A)
Use of Means of Identification to Obtain Means of Identification:	+2	U.S.S.G. § 2B1.1(b)(11)(C)(i)
Acceptance of Responsibility:	-3	U.S.S.G. § 3E1.1(a)-(b)
<hr/>		
TOTAL:	24	

26 Based on that calculation, the USPPPO recognized that a total  
27 offense level of 24 and a Criminal History Category of III yield an  
28 advisory Guidelines range of 63 to 78 months' imprisonment, followed

1 by a two-year mandatory consecutive sentence, and period of  
2 supervised release of two to five years on counts one, three, four,  
3 and seven, which are Class B felonies, and one year on count thirty-  
4 three, a Class E Felony. (PSR ¶¶ 134-138.)

5 **B. The Government Concurs with the PSR's 16-Level Loss**  
6 **Enhancement.**

7 The U.S.S.G. § 2B1.1(b)(1) enhancement is intended to reflect  
8 defendant's culpability, based on "the greater of actual loss or  
9 intended loss." U.S.S.G. § 2B1.1, App. Note 3. "Intended loss"  
10 refers to the pecuniary harm that defendant purposely sought to  
11 inflict and includes the intended harm even if "that would have been  
12 impossible or unlikely to occur." Id. The reason for using intended  
13 loss is that it is a "direct measure of culpable mental state" and  
14 reflects the defendant's culpability. United States v. Hoffman, 901  
15 F.3d 523, 558 (5th Cir. 2018) (citations omitted) (explaining that "a  
16 focus on intended loss makes sense for moral and utilitarian  
17 considerations" (cleaned up)). Consistent with this principle, the  
18 16-level enhancement here appropriately captures the culpability of  
19 defendant's mens rea and, in turn, the commensurate seriousness of  
20 her crime when a defendant like this one threatens and intends the  
21 loss of over \$1.7 million in losses to government assistance  
22 programs.

23 Here, it is evident that the intent of defendant's crimes was to  
24 fully convert all of the unemployment assistance funds fraudulently  
25 obtained from California EDD for her and her co-conspirators' use.  
26 For example, defendant admits that she obtained the PII of D.F. and  
27 M.D.S., who were incarcerated, and that she submitted applications to  
28 EDD with the PII of D.F. and M.D.S. (Rule 11 Statement ¶ 13.)

1 Defendant then transmitted the information required to access the  
2 D.F. and M.D.S. accounts to co-defendant Plummer twice, instructing  
3 her to "call and change pin" for the D.F. and M.D.S. accounts, and to  
4 "cert" [to recertify eligibility] for the D.F. account. (PSR ¶ 35.)  
5 As a result of defendant's actions and her directions to co-  
6 conspirators, EDD loaded \$13,392 on the D.F. account. Defendant's  
7 co-conspirators withdrew \$13,387.99 from the D.F. account.  
8 Similarly, as a result of defendant's actions, EDD loaded \$12,392 on  
9 the M.D.S. account. Defendant's co-conspirators withdrew \$12,389.69  
10 from the M.D.S. account. In other words, for these two easily  
11 traceable accounts, defendant and her co-conspirators left less than  
12 \$5 on each account. Defendant intended for and instructed her co-  
13 conspirators to be able to drain all of the funds obtained from  
14 California EDD.<sup>1</sup> Thus, the intended loss amount of \$1.7 million,  
15 which EDD loaded onto the fraudulent EDD accounts, is the most  
16 accurate measure of loss and defendant's culpability. See U.S.S.G. §  
17  
18

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19 <sup>1</sup> This intent to drain full accounts is seen throughout the EDD  
20 accounts used in the fraud scheme. In response to the Court's  
21 questions at the June 26, 2023 sentencing hearings, the government  
22 conducted further inquiry into the actual and intended loss amounts  
23 in the case.

24 Late on June 26, 2023, the government received a revised loss  
25 calculation and learned that several previously produced documents  
26 summarizing the loss on individual EDD accounts were improperly  
27 formatted and had not, in fact, been included in the government's  
28 summary charts.

Based on this revised analysis, EDD loaded \$1,699,975 onto the  
EDD accounts created by defendant and her co-defendants, and a total  
of \$1,563,668.03 was withdrawn or accessed from the EDD debit card  
accounts. Because this revised actual loss amount was not included  
in the government's summary charts produced before any defendant  
pleaded guilty, the government maintains that the appropriate  
restitution amount is \$933,181. However, because the corrected  
actual loss amount is \$1,563,668.03, a 16-level increase is  
appropriate even if the Court were to rely on actual loss.

1 2B1.1 cmt. n.3(C) (requiring that a district court "make a reasonable  
2 estimate of the loss").

3 **C. The Court Should Reject Defendant's Argument that Schemes**  
4 **that Defraud the Public Are Less Harmful.**

5 Defendant attempts to minimize the relevant loss amount, arguing  
6 that the loss here is overstated because the impact was felt by a  
7 California public assistance program, and thus California taxpayers  
8 at large, rather than an individual victim. (Def. Obj., Dkt. 462, at  
9 3-4.) But defendant took advantage of a public benefit program  
10 intended to help Californians who were employed because of the global  
11 Covid-19 pandemic. (Rule 11 Statement ¶ 13.) The \$1.7 million  
12 disbursed by EDD to this fraud scheme and the time to process its  
13 fraudulent applications were necessarily not available to other  
14 legitimate recipients in need of the funds. A two-level variance is  
15 not appropriate.

16 **D. The Government Concurs with the PSR's 2-Level Increase**  
17 **Because the Scheme Involved 10 or More Victims.**

18 The fact that defendant is being sentenced for aggravated  
19 identity theft does not preclude a two-level increase because the  
20 scheme involved ten or more victims pursuant to U.S.S.G.  
21 §2B1.1(b) (2) (A). (Def. Obj. at 6-7.) Defendant correctly cites to  
22 United States v. Ovsepian, 674 F. App'x 712 (9th Cir. 2017), which  
23 found that "the district court did not engage in impermissible double  
24 counting in applying a two-level enhancement for number of victims  
25 under U.S.S.G. § 2B1.1(b) (2) relating to defendant's health care  
26 fraud scheme in addition to imposing defendant's consecutive sentence  
27 for aggravated identity theft under 18 U.S.C. § 1028A. The Ninth  
28 Circuit explained that "[t]he number-of-victims enhancement serves a

1 purpose distinct from punishing identity theft: punishing offenders  
2 based on the number of victims.” Id. at 713 (citing United States v.  
3 Smith, 751 F.3d 107, 121 (3d Cir. 2014) (“Quite plainly, the victim  
4 enhancement under § 2B1.1(b)(2) is not an enhancement based on the  
5 use of a ‘means of identification’; it is an enhancement based on the  
6 number of victims.”)).

7 Defendant’s argument has also been rejected by other circuits.  
8 See United States v. Anderson, 532 F. App’x 373, 378 (4th Cir. 2013)  
9 (“Like all of our sister circuits to have considered the issue, we  
10 conclude instead that § 2B1.6 does not preclude a district court from  
11 imposing a number-of-victims enhancement in conjunction with a  
12 sentence for aggravated identity theft”) (collecting cases from  
13 Sixth, Tenth, Third, and Eighth Circuits). In Anderson, the Fourth  
14 Circuit explained that:

15 [U.S.S.G. § 2B1.6 (Aggravated Identity Theft) cmt. n.2]  
16 instructs a district court to refrain from applying an  
17 enhancement only if it is triggered by a “specific  
18 offense characteristic for the transfer, possession, or  
19 use of a means of identification.” The most natural  
20 reading of the comment limits its application to  
21 enhancements linked to the nature of the offense . . .  
22 . By contrast, the § 2B1.1(b)(2)(A) enhancement at issue  
23 here looks only to the number of victims of the offense  
24 . . . . the number-of-victims enhancement ‘punishes the  
25 impact of the crime, not the transfer, possession, or  
26 use of a means of identification.’

27 Id. at 378-79. Defendant is being sentenced for conspiracy to commit  
28 bank and wire fraud (count one) and for bank fraud (counts three,  
four, and seven), which involved more than 150 victims (PSR ¶ 53),  
and the PSR correctly applied the two-level increase.

1           **E.     The Government Disagrees with the PSR's Two-Level Increase**  
2           **Because the Scheme Used Means of Identification to Obtain**  
3           **Means of Identification.**

4           The government agrees with the PSR's factual analysis finding  
5           that defendant and her co-conspirators used the PII (such as names,  
6           social security numbers, and dates of births) of individuals to  
7           obtain EDD-issued debit cards with account numbers linked to  
8           fraudulent applications for EDD benefits. (PSR ¶ 55.) The  
9           government agrees that this conduct would ordinarily support a two-  
10          level increase pursuant to U.S.S.G. § 2B1.1(b)(11)(C)(i) because the  
11          offense involved "the unauthorized transfer or use of a means of  
12          identification [i.e., names, social security numbers, and other PII]  
13          unlawfully to produce or obtain any other means of identification  
14          [i.e., EDD account numbers]." (PSR ¶ 54; U.S.S.G. §  
15          2B1.1(b)(11)(C)(i).)

16          However, the government agrees with defendant (Def. Obj. at 4)  
17          that because defendant was also convicted of count thirty-three, for  
18          aggravated identity theft, in violation of 18 U.S.C. 1028A, this two-  
19          level increase does not apply. Application Note 2 to U.S.S.G. §  
20          2B1.6 directs that if a sentence is imposed under § 2B1.6 for  
21          aggravated identity theft, "do not apply any specific offense  
22          characteristic for the transfer, possession, or use of a means of  
23          identification when determining the sentence for the underlying  
24          offense. A sentence under this guideline [§ 2B1.6] accounts for this  
25          factor for the underlying offense of conviction." Thus, the two-  
26          level increase pursuant to U.S.S.G. § 2B1.1(b)(11)(C)(i) does not  
27          apply.



**F. A Four-Level Increase Applies to Defendant's Guidelines Offense Level Because Defendant was a Leader Within the EDD Fraud Scheme.**

Defendant was an organizer or leader of the charged criminal activity, which involved five or more participants or was otherwise extensive, and a four-level increase applies. U.S.S.G. § 3B1.1(a). In determining whether a defendant is a leader or organizer, the Court should consider the following factors: the exercise of decision making authority, the nature of participation in the commission of the offense, the recruitment of accomplices, the claimed right to a larger share of the fruits of the crime, the degree of participation in planning or organizing the offense, the nature and scope of the illegal activity, and the degree of control and authority exercised over others. U.S.S.G. § 3B1.1, App. Note 4. "[T]o sustain a finding that a defendant was an organizer or a leader [under § 3B1.1(a)], there must be evidence that the defendant exercised some control over others involved in the commission of the offense or was responsible for organizing others for the purpose of carrying out the crime." United States v. Ingham, 486 F.3d 1068, 1074 (9th Cir. 2007) (citing United States v. Avila, 95 F.3d 887, 890 (9th Cir. 1996)) (rejecting argument that control and organizational authority are required). The role enhancement does not apply if the defendant and the other participants are merely "co-equal conspirators." United States v. Gagarin, 950 F.3d 596, 606 (9th Cir. 2020) (quotation omitted).

Defendant was not a "patsy." (Def. Sent. Pos. at 1.) She was at the center of the EDD fraud scheme. Defendant and her co-conspirators obtained the PII that was essential to the scheme. (PSR ¶ 26.) Specifically, defendant admitted that she, along with co-conspirator Plummer, solicited PII from incarcerated CDCR inmates and

1 defendant herself obtained PII from a CDCR employee, who accessed the  
2 CDCR databases for this purposes. Witnesses specifically reported  
3 watching defendant exit the CDCR employee's office with a stack of  
4 printouts with the PII. (Id.) Defendant's emails and recorded phone  
5 calls show that she managed and distributed to co-conspirators the  
6 usernames and passwords (including security questions) for the  
7 various EDD accounts involved in the scheme, gave directions for how  
8 to conduct the scheme (e.g., how to change addresses on EDD accounts  
9 when needed), gave directions for which EDD accounts needed to have a  
10 changed PIN number, and gave directions for where to send mail  
11 related to the scheme. (See PSR ¶¶ 34-35.) Defendant also clearly  
12 had organizational control over the scheme as she followed up with  
13 co-conspirators and held them accountable, saying, "I don't mean to  
14 keep reminding u, but can u please get on it and tell me what is done  
15 once u do it," listing several EDD scheme tasks. (PSR ¶ 35.)

16 Additionally, and reflective of the control she exercised,  
17 scheme members viewed defendant as the leader of the scheme. For  
18 example, one co-defendant updated defendant that he received an EDD  
19 card and then begged defendant for permission to activate it. (PSR ¶  
20 36.) Another co-defendant contacted defendant to complain that she  
21 was not receiving EDD cards and threatened to go to law enforcement.  
22 (Plea Agreement for D. Martin, Dkt. 380, ¶ 12). In response,  
23 defendant provided the co-defendant with credentials to log into two  
24 EDD accounts, informing the co-defendant that the EDD cards had been  
25 sent to a P.O. Box where no one was able to sign for the delivery.  
26 (Id.) Co-conspirators understood that defendant knew where the EDD  
27 cards were and that she could unlock their access to more funds.

Defendant exerted control, at a minimum, over the distribution and access to the EDD accounts, and organizational authority over the victims' PII from the CDCR employee and the fraud scheme tasks to be completed. See Gagarin, 950 F.3d at 607 (applying a three-level aggravating role and finding significant that defendant guided others through actions to further the conspiracy, including directing the use of the bank accounts, and giving phone numbers to use as the numbers for fake insurance applications). And defendant participated in every part of the fraud scheme that was not prevented by her incarceration. The government submits that a four-level increase under this section is appropriate.

\* \* \*

Accordingly, the government believes the total offense level calculation for defendant is as follows:

Base Offense Level:	7	U.S.S.G. § 2B1.1(a) (1)
\$1,500,000 < Loss Amount		
< \$3,500,000:	+16	U.S.S.G. § 2B1.1(b) (1) (G)
10 or More Victims:	+2	U.S.S.G. § 2B1.1(b) (2) (A)
Leader or Organizer:	+4	U.S.S.G. § 3B1.1(a)
Acceptance of Responsibility:	-3	U.S.S.G. § 3E1.1(a) - (b)

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TOTAL: 26

Based on a Criminal History Category of III, the advisory Guidelines range is 78 to 97 months' imprisonment, followed by a two-year mandatory consecutive sentence. The government's recommended sentence is at the low-end of this advisory Guidelines range.

1           **G.     Joint and Several Restitution Obligation**

2           The government agrees that defendant should be ordered to pay  
3 \$933,181 in restitution to EDD. (Rec. Letter at 1.) However, in  
4 light of her leadership role in the organization, the government  
5 submits that defendant should be held jointly and severally liable  
6 with all co-defendants, to the extent that each is convicted and  
7 determined liable for losses attributable to the same fraudulently  
8 obtained benefits. (Rec. Letter at 2.) The victim's recovery  
9 remains limited to the amount of their loss and the defendant's  
10 liability for restitution ceases if and when the victim receives full  
11 restitution.

12           **IV.   THE GOVERNMENT RECOMMENDS 102 MONTHS' INCARCERATION**

13           The government recommends that the defendant be sentenced to a  
14 Guidelines term of 102 months' imprisonment, a three-year period of  
15 supervised release, a \$500 special assessment, and restitution of  
16 \$933,181. Such a sentence is sufficient, but not greater than  
17 necessary, to achieve the purposes set forth in 18 U.S.C. § 3553(a).

18           **A.     Need to Afford Adequate Deterrence**

19           Economic crimes like the charged EDD scheme are quintessentially  
20 deterrable, elevating the deterrence of a significant term of  
21 imprisonment to its zenith in cases like this one. "Because economic  
22 and fraud-based crimes are 'more rational, cool, and calculated than  
23 sudden crimes of passion or opportunity,' these crimes are 'prime  
24 candidate[s] for general deterrence.'" See United States v. Martin,  
25 455 F.3d 1227, 1240 (11th Cir. 2006) (quoting Stephanos Bibas, White-  
26 Collar Plea Bargaining and Sentencing After Booker, 47 Wm. & Mary L.  
27 Rev. 721, 724 (2005)). In fact, Congress, in drafting section 3553,  
28 confirmed that this common-sense principle was one of the driving

1 forces for including deterrence among the goals of sentencing. See  
2 S. Rep. No. 98-255, at 76 (1983), reprinted in 1984 U.S.C.C.A.N.  
3 3182, 3259 ("To deter others from committing the offense . . . is  
4 particularly important in the area of white collar crime."). Indeed,  
5 Congress was expressly concerned with the fact that "[m]ajor white  
6 collar criminals often are sentenced to . . . little or no  
7 imprisonment," which the offenders disregard as "a cost of doing  
8 business." Id. As Judge Bea has written, "bank fraud, unlike an  
9 assault in a tavern or even domestic abuse, tends to be a planned,  
10 deliberate crime, which allows plenty of time for reflection,  
11 calculation of the odds of success or failure, and the ultimate  
12 decision." United States v. Edwards, 595 F.3d 1004, 1021 (9th Cir.  
13 2010) (Bea, J., concurring).

14 Defendant's brazen EDD fraud scheme – which involved harvesting  
15 PII belonging to other inmates, using that information to  
16 fraudulently procure pandemic unemployment benefits, and then using a  
17 network of accomplices to withdraw the funds, all while serving a  
18 life sentence in California state prison – was no crime of passion or  
19 emotional outburst. Nor was she feeding an addiction or suffering  
20 from mental illness. Instead, defendant made a cost-benefit analysis  
21 and decided that the money and influence, including among fellow  
22 inmates, that she stood to gain was worth the additional penalties  
23 she faced if she were caught. For almost a year, and to the tune of  
24 nearly \$1.7 million, defendant's decision paid off. Unless  
25 defendant's crimes are met with an adequate punishment, others like  
26 her – including other inmates – will undoubtedly make the same  
27 calculation she did, and many of those will do so without ever being  
28 apprehended.

1       The fact that defendant was already incarcerated on a life  
2 sentence further demonstrates the need for a sentence that affords  
3 adequate deterrence. As a general rule, "deterrence from criminal  
4 behavior is a function of the probability of detection, the size of  
5 the sanction, and the benefit that the would-be violator stands to  
6 gain if not detected." Francesca R. Jensensus & Abby K. Wood,  
7 Caught in the Act but Not Punished: On Elite Rule of Law and  
8 Deterrence, 4 Penn. State J.L. & Int'l Affairs 686, 688 (2016).  
9 Defendant led and organized a scheme in which she and her co-  
10 conspirators pocketed hundreds of thousands of dollars allocated for  
11 residents of California who were unemployed on account of the COVID-  
12 19 pandemic. The severity of defendant's sentence must therefore  
13 reflect not only the seriousness of her conduct but the need to deter  
14 inmates from committing crimes and the difficulty inherent in  
15 detecting, apprehending, and convicting fraudsters who seek to abuse  
16 public benefits programs.

17       **B. Seriousness of the Offense**

18       This is a case in which the sentencing guidelines appropriately  
19 identify the factors that make defendant's conduct so serious: the  
20 \$1.7 million in intended losses, the number of individuals whose  
21 identities she obtained or corruptly procured with the assistance of  
22 a CDCR employee, hers and others' connections with the Hoover Crips  
23 street gang (the same gang that also contributed to defendant's  
24 murder of her mother), and defendant's role as its principal  
25 organizer. Together, these factors speak to a sophisticated criminal  
26 whose conduct calls for a substantial criminal sentence.

27       While the seriousness of defendant's conduct speaks for itself,  
28 several other factors demonstrate the need for defendant's sentence

1 to sufficiently "provide just punishment." 18 U.S.C.  
2 § 3553(a)(2)(A). First, defendant's crime was no momentary lapse in  
3 judgment. It was rather a lifestyle, his sole identifiable source of  
4 income for years. Likewise, just as defendant's offense is more  
5 susceptible to deterrence because it arose from a calculated cost-  
6 benefit analysis, so too it is all the more serious, since it was the  
7 product of a series of deliberate choices. Finally, that she is one  
8 of the scheme's two most culpable members - its ringleader and  
9 organizer - demonstrates her contempt for the law.

### 10 **C. Need to Avoid Unwarranted Disparities**

11 Section 3553(a)(6) requires the Court to minimize sentencing  
12 disparities among similarly situated defendants. One way of doing so  
13 is to correctly calculate the Guidelines range and then sentence  
14 defendants within that range. See United States v. Treadwell, 593  
15 F.3d 990, 1011 (9th Cir. 2010) ("Because the Guidelines range was  
16 correctly calculated, the district court was entitled to rely on the  
17 Guidelines range in determining that there was no 'unwarranted  
18 disparity' . . . ."); Gall v. United States, 552 U.S. 38, 54 (2007)  
19 ("[A]voidance of unwarranted disparities was clearly considered by  
20 the Sentencing Commission when setting the Guidelines ranges."). The  
21 government's within-Guidelines recommended sentence avoids an  
22 unwarranted disparity with similarly situated defendants.

### 23 **V. CONCLUSION**

24 For the foregoing reasons, the government recommends that the  
25 Court sentence defendant to 102 months' imprisonment (including a  
26 mandatory 24-month consecutive sentence), three years' supervised  
27 release, a \$500 special assessment, and restitution of \$933,181.  
28